

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:09-CV-23-BR

MORRIS & ASSOCIATES, INC.,

)

Plaintiff,

)

v.

ORDER

COOLING & APPLIED  
TECHNOLOGY, INC.,

)

Defendant.

)

This matter is before the Court on Plaintiff's motion to seal various documents filed in this case [DE-75]. No objection to the motion was filed and the time for filing a response has passed. Accordingly, this matter is ripe for review.

Before granting a motion to seal, courts must first give the public notice and a reasonable opportunity to challenge the motion and then examine the public's right to access in conformity with *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 181 (4th Cir.1988). If the court finds that the public's right to access is outweighed by another significant interest, then the court must consider whether there are less drastic alternatives to sealing. *Id.* In furtherance of this directive from the Court of Appeals, this Court has promulgated local rules and procedures related to the filing of sealed material. See Local Civil Rule 79.2 and Elec. Case Filing Admin. Policies and Procedures Manual, § T(1)(a)1-7 (Rev. Jan. 25, 2010). The pending motion to seal does not address how the request to seal overcomes the common law or First Amendment presumption to access, the specific qualities of the material at issue which justify sealing such material and the competing interest in access, or the reasons why alternatives to sealing are inadequate, as

required by the Court's policies and procedures. *See* Elec. Case Filing Admin. Policies and Procedures Manual, § T(1)(a)1. Additionally, the presence of a protective order in the case does not absolve the Court of its duty to make the determinations required by *Stone*.

Accordingly, the motion to seal [DE-75] is **DENIED WITHOUT PREJUDICE**. The documents shall remain **SEALED** for **14 days** in order to allow Plaintiff to refile its motion to seal in conformity with this order and the local rules and procedures of this Court or to provide the appropriate notice to Tyson Foods, Inc. and Purdue Farms, Inc. pursuant to the Electronic Case Filing Administrative Policies and Procedures Manual, § T(1)(a)6.

This the 28<sup>th</sup> day of January, 2011.



DAVID W. DANIEL  
United States Magistrate Judge